

Office of the Secretary, Education

§ 33.29

the subpoena when served, except that if a subpoena is issued on behalf of the authority, a check for witness fees and mileage need not accompany the subpoena.

(Authority: 31 U.S.C. 3804(b))

§ 33.26 Form, filing and service of papers.

(a) *Form.* (1) Documents filed with the ALJ must include an original and two copies.

(2) Every pleading and paper filed in the proceeding must contain a caption setting for the title of the action, the case number assigned by the ALJ, and a designation of the paper (e.g., motion to quash subpoena).

(3) Every pleading and paper must be signed by, and must contain the address and telephone number of the party or the person on whose behalf the paper was filed, or his or her representative.

(4) Papers are considered filed when they are mailed. Date of mailing may be established by a certificate from the party or its representative or by proof that the document was sent by certified or registered mail.

(b) *Service.* A party filing a document with the ALJ shall, at the time of filing, serve a copy of the document on every other party. Service upon any party of any document other than those required to be served as prescribed in § 33.8 shall be made by delivering a copy, or by placing a copy of the document in the United States mail, postage prepaid and addressed, to the party's last known address. If a party is represented by a representative, service must be made upon the representative in lieu of the actual party.

(c) *Proof of service.* A certificate of the individual serving the document by personal delivery or by mail, setting forth the manner of service, is proof of service.

(Authority: 31 U.S.C. 3803(b)(3)(A))

§ 33.27 Computation of time.

(a) In computing any period of time under this part or in an order issued under this part, the time begins with the day following the act, event, or default, and includes the last day of the

period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government, in which event it includes the next business day.

(b) If the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal Government are excluded from the computation.

(c) If a document has been served or issued by placing it in the mail, an additional five days is added to the time permitted for any response.

(Authority: 31 U.S.C. 3809)

§ 33.28 Motions.

(a) Any application to the ALJ for an order or ruling must be by motion. Motions must state the relief sought, the authority relied upon, and the facts alleged, and must be filed with the ALJ and served on all other parties.

(b) Except for motions made during a prehearing conference or at the hearing, all motions must be in writing. The ALJ may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or such other time as may be fixed by the ALJ, any party may file a response to the motion.

(d) The ALJ may not grant a written motion before the time for filing responses to the motion has expired, except upon consent of the parties or following a hearing on the motion, but may overrule or deny the motion without awaiting a response.

(e) The ALJ shall make a reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

(Authority: 31 U.S.C. 3803(g)(3)(A))

§ 33.29 Sanctions.

(a) The ALJ may sanction a person, including any party or representative for—

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any sanction, including but not limited to those listed in paragraphs